

REMARKS

Claims 1-4 and 6-8 are pending. Claim 1 is hereby amended, and it is the only pending independent claim. No new matter has been added by the amendment, and support can be found throughout the originally filed application. Also, the specification is hereby amended to return paragraph 0009 to its originally submitted state.

35 U.S.C. §103 Rejections

Claims 1-4 and 6 are rejected under 35 U.S.C. §103(a) over WO 97/27898 to Evard et al. (hereinafter Evard) in view of 5,246,445 to Yachia et al. (hereinafter Yachia). Claims 7 and 8 are rejected under 35 U.S.C. §103(a) over Evard in view of Yachia and further in view of 5,645,559 to Hachtman et al. (hereinafter Hachtman).

Applicants traverse these rejections.

Applicants sole pending independent claim (i.e., claim 1) recites a stent for use within a body lumen of a patient. The stent comprises a coil segment and a flexible polymer material. The coil segment comprises a wound element including one or more windings spaced from each other. The flexible polymer material is disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings that inhibits ingrowth of body tissue between the windings when the stent is placed within the body lumen of the patient.

Evard describes a device used to connect openings formed in adjacent blood vessels so that fluid may pass from one vessel to another. Evard does not teach or suggest a wound element including one or more windings spaced from each other and a flexible polymer material disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings that inhibits ingrowth of body tissue between the windings when the stent is placed within the body lumen of the patient. The Office asserts, however, that Evard does describe such webbing on page 33, lines 5-8. Applicants respectfully disagree.

The description at page 33 of Evard, when taken in context, relates to a sinusoidal wire connector device which may have a covering mounted on a portion of the device. As specified by Evard, a

covering formed of any suitable material (e.g., elastomeric fabric, natural graft material, etc.) may be formed on all or part of the device. For example, a tubular covering may be mounted on the mid-portion formed by the smaller sinusoidal waves or convolutions 102 and the basal portions of the larger sinusoidal waves or convolutions 104, and such a cover may optionally extend outwardly over the entireties of the laterally bent portions of the larger sinusoidal waves or convolutions 104, in accordance with the invention as described hereinabove in relation to Figures 7c and 7d. (Page 33, lines 5-16, emphasis added)

Thus, Evard describes an embodiment wherein a wire, formed into multiple sinusoidal waves and connected on each end to form a loop, may have a "covering" mounted thereon. However, Evard does not teach or suggest such a "covering" with a coil segment. Further, even if Evard could be interpreted to suggest a coil segment having a "covering", Evard still would not teach or suggest applicants' stent as recited in claim 1.

In particular, applicants' flexible polymer material is disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings. This webbing inhibits ingrowth of body tissue between the windings when the stent is placed within the body lumen of the patient.

Applicants respectfully submit that the webbing recited in claim 1, which is between the windings, is different from Evard's "covering", which is mounted on Evard's sinusoidal wave device, (Figs. 7c and 7d). In particular, Evard describes a covering or sleeve in the form of a tube that is placed over the sinusoidal wave. Evard does not teach or suggest webbing between windings. Further, due to the different uses and requirements of Evard, applicants respectfully submit that there would be no motivation to modify Evard to include webbing between windings. Rather, such motivation comes purely from applicants' disclosure.

Yachia et al. does not remedy these deficiencies of Evard. In particular, Yachia merely describes an implant that may be in the form of a wound wire. Yachia does not describe or

suggest webbing or even "coverings" of any type. Rather, according to Yachia, the wire is formed of tight windings, which are important to prevent "leaking through" of the inner lining of a vessel or duct, which would result in incorporation of a device into the vessel or duct (col. 4, lines 45-49). Most of Yachia stresses the importance of providing very little, if any, space between windings. Yachia does disclose one example where a particular amount of space is provided between windings. Specifically, in the one exceptional embodiment, space may be left between the loops of the coil where it is desired that a stent become incorporated into the vessel or duct (see col. 4, lines 49-52). Thus, in Yachia, any space between windings is provided for the sole purpose of allowing the stent to become incorporated into the vessel or duct. As such, one of ordinary skill would not have disposed anything between the windings of Yachia's device because that would have inhibited the ingrowth of body tissue between the windings, and thus would have inhibited Yachia's stent from becoming incorporated into the vessel or duct. Yachia specifically teaches away from inhibiting tissue ingrowth when there is space between windings of the coil. Modification of Yachia so as to provide the claimed webbing would have rendered Yachia unsatisfactory for its intended purpose of allowing ingrowth and incorporation of the device. Thus, one of ordinary skill would not have been motivated to make such a modification (MPEP §2143.01).

Accordingly, applicants submit that claim 1 is patentable over Evard in view of Yachia. Claims 2-4 and 6-8 depend from claim 1 and, likewise, are patentable over Evard in view of Yachia.

Hachtman, in combination with Yachia, does not remedy the deficiencies of Evard as set out above. In particular, Hachtman merely describes a stent in the form of an open weave/mesh. Hachtman does not teach or suggest a coil segment comprising a wound element including one or more windings spaced from each other and a flexible polymer material disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings. Given that each of the three references fails to teach or suggest at least this same aspect of claim 1, no combination of Hachtman, Yachia and/or Evard could have resulted in applicants' stent recited in claim 1.

APPLICANT: Rioux et al.

U.S.S.N.: 09/935,487

Page 8 of 9

Applicants submit that claim 1 is patentable over Evard, Yachia, and Hachtman. Claims 7 and 8 depend from claim 1 and, likewise are patentable over Evard, Yachia, and Hachtman. Reconsideration and withdrawal of the rejections is respectfully requested.


CONCLUSION

In view of the foregoing, applicants request reconsideration and allowance of claims 1-4 and 6-8.

It is believed that no fees are required for consideration of this response. However, if for any reason the fee paid is inadequate or credit is owed for any excess fee paid, the Office is hereby authorized and requested to charge Deposit Account No. **04-1105**.

April 15, 2005

Respectfully submitted,



Lisa Swiszc Hazzard (Reg. No. 44,368)
EDWARDS & ANGELL, LLP
P.O. Box 55874
Boston, Massachusetts 02205
Tel. No. (617) 517-5512
Customer No. 21,874